

Message Text

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PAGE 01 STATE 009264
ORIGIN EB-08

INFO OCT-01 EA-10 ISO-00 L-03 HA-05 CIAE-00 INR-07
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L/EA:SORLINS

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FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: EXPROPRIATION: SEA OIL/P.T. BAUD CLAIM

REF: STATE 284510

1. DEPARTMENT OFFICERS MET WITH ATTORNEY DAWSON AND ADKINSON OF SEA OIL DECEMBER 13 TO DISCUSS SEVERAL ASPECTS OF SEA OIL CLAIM AGAINST GOI. DAWSON PROVIDED INFORMATION IN ANSWER TO SOME OF PREVIOUSLY UNANSWERED QUESTIONS REGARDING SEA OIL/P.T. BAUD CLAIM. HE ALSO USED MEETING AS OPPORTUNITY TO DISCUSS REQUEST THAT DEPARTMENT URGE GOI TO AGREE TO ARBITRATION OF CLAIM.

2. QUESTION OF USG REPRESENTATIONS ON BEHALF OF SEA OIL WAS DISCUSSED AT REGULAR MEETING OF INTERAGENCY EXPROPRIATION GROUP ON DECEMBER 14. GROUP AGREED THAT ALTHOUGH AT LIMITED OFFICIAL USE

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THIS TIME THERE IS NOT ENOUGH NEW INFORMATION TO REVERSE ITS DECISION (OCTOBER 1976) THAT THERE WAS INSUFFICIENT GROUND TO CONSIDER LEGISLATIVE SANCTIONS, USG SHOULD NOW UNDERTAKE TO URGE GOI TO AGREE TO ARBITRATION OF CLAIM.

3. GROUP FELT THAT FORUM OF ARBITRATION SHOULD NOT BE SPECIFIED IN OUR APPROACH BUT SHOULD BE DETERMINED AT

LATER TIME BY MUTUAL AGREEMENT BETWEEN GOI AND SEA OIL.

IT WAS FELT THAT PRESENTATION WOULD BE MORE EFFECTIVE IF IT WERE MADE IN SUPPORT OF DIRECT REQUEST BY SEA OIL TO GOI ASKING LATTER TO AGREE TO ARBITRATION. SEA OIL AND DAWSON HAVE AGREED TO MAKE SUCH A REQUEST BY A LETTER, AND WE HAVE AGREED TO FACILITATE ITS DELIVERY. LETTER WILL BE POUCHED.

4. ACTION REQUESTED. UNLESS YOU PERCEIVE PROBLEMS, UPON RECEIPT OF LETTER, EMBASSY SHOULD DELIVER IT ON BEHALF OF SEA OIL TO APPROPRIATE GOI OFFICIAL (S). YOU SHOULD MAKE KNOWN OUR DESIRE TO SEE THIS CASE RESOLVED VIA ARBITRATION, AND MAY USE THE FOLLOWING TALKING POINTS.

-- THE GOI EARLIER THIS YEAR REFUSED AN INTERNATIONAL CHAMBER OF COMMERCE REQUEST FOR ARBITRATION OF THE SEA OIL/P.T. BAUD CLAIM AGAINST THE GOI. THE USG WAS DISAPPOINTED BY THIS REFUSAL, SINCE WE BELIEVED ARBITRATION WOULD BE AN EXCELLENT MEANS OF RESOLVING THE MANY DIFFERENCES BETWEEN THE TWO PARTIES. IT WAS, IN FACT, ON THE RECOMMENDATION OF THE USG THAT SEA OIL SOUGHT ARBITRATION OF ITS CLAIM. THE USG CONTINUES TO FAVOR ARBITRATION WITHOUT TAKING A STAND ON THE MERITS OF THE POSITION OF EITHER SIDE.

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-- WE NOTE THAT THE GOI REFUSED TO ARBITRATE ON THE GROUND THAT P.T. BAUD WAS AN INDONESIAN CORPORATION. IT IS OUR UNDERSTANDING THAT P.T. BAUD WAS ORIGINALLY A DUTCH CORPORATION (N.V. BAUD), WHICH IN TURN WAS OWNED BY SEA OIL AT THE TIME THE BAUD PROPERTIES WERE TAKEN.

-- WE BELIEVE THAT FAILURE TO RESOLVE THIS CLAIM COULD HAVE A NEGATIVE IMPACT ON INDONESIA'S INVESTMENT CLIMATE. WE THEREFORE URGE THE GOI TO AGREE TO SUBMIT THE SEA OIL/P.T. BAUD CLAIM TO ARBITRATION BEFORE A TRIBUNAL MUTUALLY ACCEPTABLE TO BOTH THE GOI AND THE COMPANY. CHRISTOPHER

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